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|----|--|---|
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| 5 | Attorneys for Defendant Motorola, Inc. | Attorney for Plaintiff Gregory Bender |
| 6 | inc. | |
| 7 | | |
| 8 | UNITED STATES DISTRICT COURT | |
| 9 | NORTHERN DISTRICT OF CALIFORNIA | |
| 10 | OAKLAND DIVISION | |
| 11 | Gregory Bender, | CASE NO. C 09-01245 SBA (LB) |
| 12 | Plaintiff, | NOTICE OF: |
| 13 | v. | 1) SETTLEMENT-IN-PRINCIPLE; |
| 14 | Motorola Inc., | 2) WITHDRAWAL OF MOTOROLA, INC.'S MOTION TO STRIKE |
| 15 | Defendant. | INFRINGEMENT CONTENTIONS |
| 16 | | OR IN THE ALTERNATIVE TO COMPEL INFRINGEMENT |
| 17 | | CONTENTIONS THAT COMPLY WITH PATENT L.R. 3-1 (D.I. 49); AND |
| 18 | | - |
| 19 | | [PROPOSED] ORDER |
| 20 | | DICCOVEDY MARKED |
| 21 | | DISCOVERY MATTER |
| 22 | | Previously set for: |
| 23 | | Date: August 5, 2010 Time: 11:00 a.m. Courtroom: 1, 3 rd Floor |
| 24 | | Courtroom: 1, 3 rd Floor Magistrate Judge: Laurel Beeler |
| 25 | | |
| 26 | Pursuant to Defendant Motorola, Inc.'s, counsel's August 5, 2010, telephone conversation | |
| 27 | with, and at the request of, Magistrate Judge Beeler's clerk, and on the basis of a settlement-in- | |
| 28 | principle between the parties, the parties hereby file this stipulated request to withdraw Defendant | |

STIPULATION AND [PROPOSED] ORDER G WITHDRAWING NOTION TO STRIKE CASE NO. C 09-01245 SBA (LB)

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| 1 | Matanala I.a. in a commutation of the Matina Taggina Infilm and Cantantiana On In The | | |
|----|---|--|--|
| 1 | Motorola, Inc.'s, currently pending Motion To Strike Infringement Contentions Or In The | | |
| 2 | Alternative To Compel Infringement Contentions That Comply With Patent L.R. 3-1, filed on | | |
| 3 | April 27, 2010 (D.I. 49). The parties further request that this withdrawal be without prejudice to | | |
| 4 | re-filing the motion at a later date should the parties not reach final agreement on settlement. The | | |
| 5 | parties stipulate that the Court's previous order granting Defendant Motorola, Inc. temporary | | |
| 6 | relief from its discovery obligations, (D.I. 33), shall remain in place until the matter is resolved. | | |
| 7 | WHEREAS, on April 27, 2010, Defendant Motorola, Inc., filed a Motion To Strike | | |
| 8 | Infringement Contentions Or In The Alternative To Compel Infringement Contentions That | | |
| 9 | Comply With Patent L.R. 3-1 (D.I. 49). | | |
| 10 | WHEREAS, such Motion was previously set to be heard by the Court on August 5, 2010. | | |
| 11 | WHEREAS, Defendant Motorola, Inc.'s obligations under Patent L.R. 3-3 and 3-4 and | | |
| 12 | any other obligations to produce technical documents are currently stayed until 45 days after the | | |
| 13 | resolution of the parties' dispute regarding the sufficiency of Plaintiff's infringement contentions. | | |
| 14 | (See Docket No. 33.) | | |
| 15 | WHEREAS, on August 4, 2010, the parties reached an agreement in principle to settle the | | |
| 16 | above-captioned matter. | | |
| 17 | WHEREAS, the parties expect to execute a final settlement agreement and to request that | | |
| 18 | the Court dismiss the case within 30 days, contingent on the completion of a final settlement | | |
| 19 | agreement and the execution of obligations pursuant to that agreement. | | |
| 20 | | | |
| 21 | THE PARTIES HEREBY STIPULATE THAT: | | |
| 22 | Defendant Motorola, Inc.'s, pending Motion To Strike Infringement Contentions Or, In | | |
| 23 | The Alternative, To Compel Infringement Contentions That Comply With Patent L.R. 3-1, filed | | |
| 24 | on April 27, 2010, (D.I. 49), is withdrawn without prejudice, and the Court's previous order | | |
| 25 | granting Defendant temporary relief from its discovery obligations, (D.I. 31), shall remain in | | |
| 26 | place until the case is dismissed or the discovery dispute is resolved. | | |
| 27 | | | |

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| 1 | | Respectfully submitted, | |
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| 2 | Dated: August 5, 2010 | Jones Day | |
| 3 | | | |
| 4 | | By: /s/ Greg L. Lippetz | |
| 5 | | Greg L. Lippetz State Bar No. 154228 JONES DAY | |
| 6 | | 1755 Embarcadero Road | |
| 7 | | Palo Alto, CA 94303 Telephone: 650-739-3939 | |
| 8 | Facsimile: 650-739-3900 | | |
| 9 | | Counsel for Defendant Motorola, Inc. | |
| 10 | In accordance with Conoral Or | der No. 45. Section Y(R), the above signatory attacts that | |
| 11 | In accordance with General Order No. 45, Section X(B), the above signatory attests that | | |
| 12 | concurrence in the filing of this document has been obtained from the signatory below. | | |
| 13 | | | |
| 14 | Dated: August 5, 2010 | By: /s/ David N. Kuhn David N. Kuhn | |
| 15 | | Attorney-at-Law 144 Hagar Avenue | |
| 16 | | Piedmont, California 94611 Telephone: (510) 653-4983 | |
| 17 | | Counsel for Plaintiff Gregory Bender | |
| 18 | PURSUANT TO STIPULATION, IT IS SO ORDERED: | | |
| 19 | | | |
| 20 | | | |
| 21 | DATED: August 5 2010 | Rv. UBC | |
| 22 | DATED: <u>August 5</u> , 2010 | THE HON. LAUREL BEELER | |
| 23 | | United States Magistrate Judge | |
| 24 | | | |
| 25 | | | |
| 26 | | | |
| 27 | | | |
| 28 | | | |
| | | STIPULATION AND [PROPOSED] ORDER -3- WITHDRAWING MOTION TO STRIKE | |